IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4570 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE MR SHAH

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SAFIYUDDIN SIRAJUDDIN SIDDIQUI - Petitioner(s)

Versus

TRANSPORT MANAGER, A M T S - Respondent(s)

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Appearance :

MR VM DHOTRE for Petitioner No(s).: 1.

MR HS MUNSHAW for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE MR SHAH

Date : 28/06/2005

ORAL JUDGMENT

Rule. Shri HS Munshaw, learned advocate waives service of Rule on behalf of the respondents. With the consent of the learned advocates appearing for the parties, the matter is taken up for

final hearing today.

2. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order or direction directing the respondents to reinstate him in service and to pay salary from the date of dismissal, i.e., 18.11.2002 with all incidental and consequential benefits flowing therefrom.

3. It appears from the record that services of the petitioner came to be terminated, however, in view of the fact that some dispute was pending the respondent approached the Industrial Tribunal, Ahmedabad for approval by way of Application (IT) No. 118/02 in Reference (IT) No. 137/01 under Section 33(2)(b) of the Industrial Disputes Act, 1947 [“the ID Act” for short] and requested to approve their action in dismissing the petitioner. The Industrial Tribunal by judgment and order dated 25.10.2004 rejected the application of the respondent for approval of their action to dismiss the petitioner. Inspite of the aforesaid fact the petitioner is neither reinstated nor paid wages and therefore the petitioner has preferred the present Special Civil Application for the aforesaid reliefs.

4. Shri Munshaw, the learned advocate appearing on behalf of the respondents is not in a position to show that the order passed by the Industrial Tribunal, Ahmedabad, dated 25.10.2004 in Application (IT) No. 118/2002 in Reference No. (IT) No. 137/2001 is challenged by them or not. Nothing is on record to show that the said has been challenged by the respondents or not. In absence of any challenge to the order dated 25.10.2004 passed by the Industrial Tribunal in rejecting the application submitted by the respondents for approval of their action of dismissing the petitioner, and considering the Judgment of the Hon'ble Supreme Court in the case of Jaipur Zilla Sahakari Bhoomi Vikas Bank Ltd. Vs. Shri Ram Gopal Sharma and Others, reported in 2002 LAB.I.C. 513 the respondent is required to reinstate the petitioner and to pay salary from the date of dismissal.

5. Under the circumstances and considering the aforesaid judgment of the Hon'ble Supreme Court, the petition succeeds and the respondent is directed to reinstate the petitioner in service and to pay his salary from the date of dismissal, i.e., 18.11.2002 as early as possible preferably within the period of 15 days from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[M.R. Shah, J.]
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